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10/812,121	03/29/2004	James Johnson	26090-034	1539

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Thomas R. Mancini, Esquire
Potter Anderson & Corroon LLP
PO Box 951
Wilmington, DE 19899-0951

EXAMINER

TYLER, STEPHANIE E

ART UNIT	PAPER NUMBER
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3754

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/812,121	Applicant(s) JOHNSON, JAMES	
	Examiner Stephanie E. Tyler	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>7/8/2004</u> | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1,3,5,6,7,13-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claimed subject matter regarding the internal slider having, "multiple closed positions and/or a subsequent closed position", is not found to be supported in the disclosure as originally filed. Therefore the Office has considered the above claimed entities as new matter.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1,3,5,6,7,13-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear to the Office how the internal slider can have multiple closed positions and /or a subsequent closed position. It appears from reading the claims and the specification that there is only one close

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position and one open position. Thus for examining purposes the internal slider will be treated as having one open position and one closed position.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5-10,12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Lloyd-Davies (4,564,132).

The Lloyd-Davis reference discloses a fitment (41) for attachment to a container a generally cylindrical spout (13) having an external surface capable of mating with a collar of a dispensing connector, a generally cylindrical external slider (47) movable axially within the spout (13) and having apertures (53) therein proximate an end thereof; and a generally cylindrical internal slider (61) having ports (65) therein and movable axially within the external slider (47), the internal slider (61) movable between a closed position operable to prevent the flow of fluid through the fitment (41) and an open position wherein the ports (65) are in fluid communication with the apertures (53) to allow the flow of fluid through the fitment (41), the internal slider (61) being movable from a closed and open positions by insertion of a dispensing connector into the external slider (47) adjacent the internal slider (61), the fitment (41) consisting of a plurality of deformable members (63,89) integrally formed at an end of one of the sliders

(47,61), the deformable members (63,89) being biased in the open position so as to return the internal slider (61) to at least one closed position, upon removal of the dispensing connector (19).

Regarding claim 2 note in figures 1-6 wherein the deformable members (63) are located the external slider (303).

Regarding claim 3 note in figures 1-6 wherein a container (11) having a fitment (41) attached to a wall of the container (11, fig.1) form in a fluid outlet for the container (11) and having a fluid passage therethrough; a generally cylindrical spout (13) having an external surface capable of mating with a collar (29) of a dispensing connector (19) a first generally cylindrical external slider (47) complementarily shaped to the fluid passage (54,75) and carried therein, the slider (47) being movable axially with respect to the fluid passage (54,75) and having apertures (53) therein proximate an end thereof; a second generally cylindrical internal slider (61) complementarily shaped to the external slider (47) and carried therein and having ports (65) therein, the internal slider (61) movable axially within the external slider (47), the internal slider (61) movable between at least one closed position operable to prevent the flow of fluid through the fitment (41) and an open position wherein the ports (65) are in fluid communication with apertures (53) to allow the flow of fluid through the fitment (41) and out of the container (11), the internal slider (61) being adapted to be moved between the a closed and thee open position by insertion of a dispensing connector (19) into the external slider (47) adjacent the internal slider (61) to engage the internal slider (61), the fitment (41) including a plurality of deformable members (63) integrally formed at an end of one of

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the sliders (47,61), the deformable members (63) being biased in the open position so as to return the internal slider (61) to at least one closed position, upon removal of the connector (19).

Regarding claims 5 & 7 note in figures 1-6 wherein the deformable members (63,89) integrally formed at an end of one of the sliders (47) are biased in the open position so as to return the internal slider (61) to at least one closed position by abutting against at least a portion of the other slider.

Regarding claim 6 note in figures 1-6 a double slider valve having generally cylindrical external slider (47) movable axially within the spout (13); and a generally cylindrical internal slider (61) movable axially within the external slider (47) and having a series of ports (53) located therein to allow the passage of fluid therethrough, the internal slider (61) movable between at least one closed position operable to prevent the flow of fluid through the fitment (41) and an open position in which the apertures (53) and the ports (65) are aligned and define a passageway through which fluid can flow, the internal slider (61) being adapted to be moved between the closed and open position by insertion of a dispensing connector (19) into the external slider (47) adjacent the internal slider (61), and biasing means for resiliently biasing the internal slider (61) towards the closed position.

Regarding claim 8 note in figures 1-6 wherein a fitment (41) with a spout (13) having an external surface capable of mating with a collar (29) of a dispensing connector (19) and defining a fluid passageway therethrough, an external slider (47) movable axially within the fluid passageway, and an internal slider (61) movable axially

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within the external slider (47), the internal slider (61) movable between at least one closed position operable to prevent the flow of fluid through the passageway and an open position operable to allow the flow of fluid through the passageway, the internal slider (61) being adapted to be moved between a closed and the open position by insertion of a dispensing connector (19) into the external slider (47) adjacent the internal slider (61), and the external slider (47) having integral biasing means located thereon to bias the internal slider (61) into a closed position from the open position.

Regarding claim 9 note in figures 1-6 wherein the biasing means comprises at least one deformable member (63) located on the external slider (47), the at least one deformable member (63,89) biased in the open position by abutting against at least a portion of the internal slider (61).

Regarding claim 10 note in figures 1-6 a container (11) with a fitment (41) attached to a wall of the container (11), forming an outlet for the container (11) extending from the fluid storage space within the container (11); an external slider (47) complementarily shaped to the fluid passage (54,75) and carried therein, the slider (47) being axially movable with respect to the fluid passage (54,75); and an internal slider (61) complementarily shaped to the external slider (47) and carried therein, the internal slider (61) movable axially within the external slider (47) between at least one closed position operable to prevent the fluid from flowing through the fitment (41) and an open position operable to allow fluid to flow through the fitment (41) and out of the container (11), the internal slider (61) being biased towards a closed position from the open position by at least one integral biasing member (63) located on the external slider (47).

Regarding claim 12 note in figures 1-6 a double slider valve a fitment (41) having a generally cylindrical external slider (47) movable axially within the spout (13) and having apertures (53) therein; a generally cylindrical internal slider (61) movable axially within the external slider (47) and having a series of ports (65) located therein to allow the passage of fluid therethrough, the internal slider (61) movable between at least one closed position operable to prevent the flow of fluid through the fitment (41) and an open position in which the apertures (53) and the ports (63) are aligned and define a passageway through which fluid can flow, the internal slider (61) being adapted to be moved between a closed position and the open position by insertion of a dispensing connector (19) into the external slider (47) adjacent the internal slider (61); and integral biasing means (63) on the external slider (47) for resiliently biasing the internal slider (61) towards a closed position.

Regarding claim 13 note in figures 1-6 wherein the integral biasing means consisting of deformable members (63) integrally formed on the external slider (47), which are biased in the open position so as to return the internal slider (61) to one of the closed positions by abutting against at least a portion (upper surface of 61) of the internal slider (61).

Regarding claims 14,15,17,18 note in figures 1-6 wherein the fitment (41) consists of at least one closed position.

Regarding claims 16&19 note in figures 1-6 wherein the fitment (41) has an initial closed position prior to insertion of the dispensing connector (19) wherein a seal (see fig.5,89) is formed between a portion of a sidewall of the external slider (47) and a

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peripheral portion (89) of the internal slider (61) and a subsequent closed position (see fig.6) after removal of the dispensing connector (19) wherein a seal (see fig.5,89) is formed between a second portion of the sidewall of the external slider (47) and a peripheral portion (89) of the internal slider (61) (col.3,lines 64-68;col.4, lines 1-17).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd-Davies (4,564,132) in view of Rutter et al. (5,901,761).

The Lloyd-Davies reference discloses substantially all the structure and functionality of the invention. However the Lloyd-Davies reference lacks an external slider with apertures that are defined by a plurality of radial spaced posts.

The Rutter et al. reference teaches an external slider (303) having apertures (325, col.7, lines 27-29) that are defined by a plurality of radially spaced posts (321)¹ for the purpose of "obtaining a desired amount of liquid flow through the valve structure when it is opened" col.7, lines 28&29).

Therefore it would have been obvious to having ordinary skill in the art at the time of the invention to have modified the Lloyd-Davies device with an external slider with

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apertures defined by posts as taught by Rutter et al. in order to permit flow through the spout and valve structure to enable liquid in the open position.

9. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection.

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephanie E. Tyler whose telephone number is 571-272-8059. The examiner can normally be reached on 8:00am-4:30pm.

¹ Note where the posts are (on the slider) 1 is considered the base of the external slider.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SET


Joseph A. Kaufman
Primary Examiner
4/2/07